

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-770

February 18, 2003

MAINE PUBLIC UTILITIES  
Investigation of Central Maine Power  
Company's Stranded Cost Rates and  
Request for Accounting Order

ORDER REQUIRING  
DISCLOSURE PURSUANT  
TO PROTECTIVE ORDERS

---

On January 24, 2003, the Industrial Energy Consumer Group (IECG) submitted a late-filed petition to intervene in this matter. On January 31, 2003, Central Maine Power Company (CMP) filed an objection to the IECG's petition. By way of a Procedural Order dated February 10, 2003 the Hearing Examiner granted the IECG's late-filed petition and ordered CMP to serve the IECG with a copy of its filing upon receipt of the Order.

On February 12, 2003, CMP sent a letter to counsel for the IECG, Anthony Buxton, requesting prior to CMP providing Mr. Buxton with a copy of the filing, that Mr. Buxton "disclose to CMP in writing the nature and extent of the financial interest you have with any competitive energy provider, energy aggregator, energy conservation entity or similar concern such that trade secrets and other confidential information can be afforded appropriate protection based on the nature and extent of your financial interests." On February 13, 2003 Mr. Buxton responded to CMP's request and provided a description of his financial interests in two entities which have business relations with CMP; a conservation provider and a competitive energy provider. At the request of Mr. Buxton, and in order to resolve this matter as expeditiously as possible, a conference of counsel was held via telephone on February 14, 2003.

Upon CMP's motion the following four protective orders have been issued in this case: Temporary Protective Order No. 1, Specific Customer Data; Temporary protective Order No. 2, Proprietary Economic Data from Global Insight and NEEP; Temporary protective Order No. 3, QF Restructuring Information; and temporary protective Order No. 4, Sales and Load Forecast Data. 35-A M.R.S.A. § 1311-A(D) provides:

If the Commission issues a protective order that denies a party access to information, the Commission shall provide the information to the party's attorney, if any, subject only to the restriction that the attorney use the information solely for the purpose of the proceeding and not disclose the information to others except that:

- (1) The Commission may deny an attorney access to information relating to bids if the attorney represents a party that made a competing bid; and
- (2) The Commission may impose further limitations if the Commission finds that an attorney has a direct, personal and substantial financial interest that could be benefited by access

to the information to the detriment of the party that provided the information.

The party requesting a protective order bears the burden of demonstrating the need for protection.

At the conference, counsel for CMP, Scott Mahoney and Ken Farber, argued that it was necessary to probe further into the nature of Mr. Buxton's financial interests before he could be provided the filing since it was not clear based on Mr. Buxton's February 13<sup>th</sup> letter as to whether his financial interest was direct and substantial. The Examiner concludes that no additional examination of Mr. Buxton's financial interests are necessary in this case. Based on the arguments presented, the Examiner finds that there is no reasonable possibility that disclosure of the material covered by Protective Order Nos. 1, 2 and 4 to Mr. Buxton under the terms of such orders could benefit Mr. Buxton's financial interests to detriment of CMP.<sup>1</sup> To the extent that CMP objects to providing Mr. Buxton with the material covered by Protective Order Nos. 1, 2 and 4, such objection is overruled.

It's the Examiner's understanding that Mr. Buxton has acknowledged and agreed to the terms of Protective Order Nos. 1, 2 and 4. Therefore, CMP shall provide Mr. Buxton a copy of its February 7<sup>th</sup> filing with the qualification that material covered by Protective Order No. 3 may be redacted at this time. Given the delay in CMP's service of its filing on counsel for the IECG, the IECG shall be given until February 20, 2003 to serve its data requests on CMP. CMP's responses to the IECG are due by noon on February 28, 2003.

Dated at Augusta, Maine, this 18<sup>th</sup> day of February, 2003.

BY ORDER OF THE HEARING EXAMINER

---

Charles Cohen

---

<sup>1</sup> By agreement of counsel, Mr. Buxton will not be provided at this time the information covered under Protective Order No. 3, QF Restructuring Information, and therefore, this order does not address the issue whether disclosure of such material is or would be required.

